

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2372 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SUSHILA H BHATT

Versus

PRINCIPAL

Appearance:

MR KIRAN YAJNIK for Petitioner

MR RJ OZA for Respondent No. 1

MR VB GHARANIA for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/04/99

ORAL JUDGEMENT

1. This is unfortunate litigation and avoidable also in case the respondents No.2 and 3 would have acted with the sense of discharging of duties which they owe to the retired employee who served the Government or Institutions which are provided financial aid by the State Government.

2. The petitioner who was working as Professor in the Department Sociology in Gandhi Mahila College, Diamond Chowk, Bhavnagar on attaining the age of superannuation retired on 28th August, 1988. It is not in dispute that the services of the teacher who retires from the grant in aid college are pensionable. As usual, it normally happens, though pension papers were submitted in time, the pension has not been sanctioned to the petitioner for manifold reasons which I am not detailing here, but it is not in dispute that for this delay in sanction of pension, firstly, provisional and secondly final, is not attributable to the petitioner. However, it is not in dispute that ultimately the petitioner has been given all the pensionary benefits. This petition has been filed by the petitioner to claim interest for this delay in payment of retirement benefits to her.

3. The respondent No.1 filed a detailed affidavit in reply to this special civil application. The other respondents have also filed the affidavit in reply to this special civil application.

4. Learned counsel for the respondents No.2 and 3 contended that the delay in finalising of the pension of the petitioner has been caused due to negligence or lapses on the part of the College.

5. It is the contention of the learned counsel for the College that the College has not made any delay in processing and finalising the pension papers of the petitioner but the respondents No.2 and 3 are wholly and solely responsible for this delay in finalising of the pension papers of the petitioner and ultimately the payment of the amount of retirement benefits to her.

6. Learned counsel for the respondent No.1 read its affidavit in extenso. I have also gone through the affidavit filed by the respondents No.2 and 3 and after going through the same, I am satisfied that the delay in finalising of the pension as well as the payment of the retirement benefits was caused due to sheer negligence, carelessness and non-cooperative attitude of the officers of the State of Gujarat. The petitioner, a retired person has been deprived of the benefit of the amount of retirement benefits for a considerable long period and the claim made by her for awarding of interest on this amount is perfectly legal and justified and it deserves to be accepted.

7. Learned counsel for the respondents No.2 and 3

contended that 18 % interest may not be granted to the petitioner on the amount of retirement benefits for delayed payment of the same. I do not find any substance in this contention. The petitioner has been paid the amount of retirement benefits after considerable long delay. For these years, the petitioner could not get any interest. During these years period, she would have also earned interest on this amount. To compensate this loss, awarding of interest at the rate of 18% p.a. is minimum.

8. Accordingly, this special civil application is allowed. The respondent - State of Gujarat through the Secretary, Education Department, Sachivalaya, Gandhinagar is directed to pay to the petitioner, interest on the amount of retirement benefits at the rate of 18% p.a. from the due date till the date of payment thereof. It is a case where a retired Professor has unnecessarily been dragged into litigation by none other than the Officers of the Welfare State, and as such, she also has to be compensated for the expenses which she incurred in filing of the special civil application. It is unfortunate that a retired Professor has not been paid the pension timely and despite of the fact that delay has been caused by the Officers of the State of Gujarat in finalising of the pension papers and making the payment of retirement benefits, they felt contented and satisfied by only making the payment of the amount of actual benefits and the interest has not been paid for which the petitioner has to come up before this Court and she has to incur heavy expenses of litigation. The respondent State of Gujarat through the Secretary, Education Department, Sachivalaya, Gandhinagar is directed to pay Rs.5000/- as costs of this special civil application, as what the learned counsel for the petitioner states that this amount has been spent by the petitioner towards the expenses under the heads, the payment of professional fees to the counsel as well as the other expenses of filing of the special civil application. Rule is made absolute in the aforesaid terms.

zgs/-